

SENATE BILL NO. 2276

Introduced by

Senators Epegard, Grindberg

Representative Dosch

1 A BILL for an Act to amend and reenact section 6-09.4-02, subsection 5 of section 6-09.4-03,
2 sections 6-09.4-06, 6-09.4-07, 6-09.4-09, and 6-09.4-13, and subsection 1 of section 40-57-02
3 of the North Dakota Century Code, relating to the purchase of qualified small issue bonds by
4 the municipal bond bank and issuance of municipal industrial development revenue bonds by
5 the municipal bond bank; and to provide program limits for the purchase or issuance of qualified
6 small issue bonds or municipal industrial revenue bonds by the municipal bond bank.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 6-09.4-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **6-09.4-02. Legislative policy.** It is declared to be the policy of the state of North
11 Dakota to foster and promote the provision of adequate capital markets and facilities for
12 borrowing money by political subdivisions or other contracting parties and for the financing of
13 their respective public improvements or projects as those terms are used or defined in this
14 chapter or chapter 40-57. It is in the public interest to encourage political subdivisions or other
15 contracting parties to continue their independent undertakings of public improvements or
16 projects and the financing thereof by making funds available at reduced interest costs,
17 especially during periods of restricted credit or money supply. Current credit and municipal
18 bond market conditions require the exercise of the powers of the state to further and implement
19 such policies by authorizing a state instrumentality to be created to borrow money and to issue
20 its bonds to make funds available at reduced rates and on favorable terms for borrowing by
21 political subdivisions or other contracting parties through the purchase or holding of marketable
22 securities of political subdivisions or other contracting parties in fully marketable form or in
23 another form adequate to secure bonds issued by the state instrumentality and by granting
24 broad powers to accomplish and to carry out the policies of the state.

1 **SECTION 2. AMENDMENT.** Subsection 5 of section 6-09.4-03 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. "Municipal security" means an evidence of indebtedness issued by a political
4 subdivision and a revenue agreement entered into by a contracting party as those
5 terms are used in chapter 40-57, but does not generally include an evidence of
6 indebtedness issued pursuant to chapter 40-57 other than an evidence of
7 indebtedness that qualifies as a qualified small issue bond as defined under
8 26 U.S.C. 144(a) [Pub. L. 99-514; 100 Stat. 2606], as amended, and regulations
9 promulgated and officially proposed to be promulgated thereunder, or as an
10 "exempt facility bond" as defined under 26 U.S.C. 142(a) (4), (5), or (6) [Pub. L.
11 99-514; 100 Stat. 2606], as amended, and regulations promulgated and officially
12 proposed to be promulgated thereunder, issued to provide one of the following:
13 a. A facility for the furnishing of water.
14 b. A wastewater facility.
15 c. A nonpoint source pollution control facility.

16 **SECTION 3. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **6-09.4-06. Lending and borrowing powers generally.** The bond bank may lend
19 money to political subdivisions or other contracting parties through the purchase and holding of
20 municipal securities which, in the opinion of the attorney general, are properly eligible for
21 purchase by the bond bank under this chapter or chapter 40-57 and for which the principal
22 amount of any one issue does not exceed two hundred thousand dollars. However, the bond
23 bank may lend money to political subdivisions or other contracting parties, through the
24 purchase and holding of securities issued by the political subdivisions or other contracting
25 parties without regard to the principal amount of the bonds issued, if the industrial commission
26 approves a resolution that authorizes the bond bank to purchase and hold the securities. The
27 authorizing resolution must state that the industrial commission has determined that private
28 bond markets will not be responsive to the needs of the issuing political subdivision or other
29 contracting party concerning the securities or, if it appears that the securities can be sold
30 through private bond markets without the involvement of the bond bank, the authorizing
31 resolution must state reasons for the bond bank's involvement in the bond issue. The bond

1 bank may hold such municipal securities for any length of time it finds to be necessary. The
2 bond bank, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds
3 payable solely from the revenues available to the bond bank which are authorized or pledged
4 for payment of bond bank obligations, and to otherwise assist political subdivisions or other
5 contracting parties as provided in this chapter or chapter 40-57.

6 The bond bank may lend money to the Bank of North Dakota under terms and
7 conditions requiring the Bank to use the proceeds to make loans for agricultural improvements
8 that qualify for assistance under the revolving loan fund program established by chapter
9 61-28.2.

10 Bonds of the bond bank issued under this chapter or chapter 40-57 are not in any way a
11 debt or liability of the state and do not constitute a loan of the credit of the state or create any
12 debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and
13 credit of the state, but all such bonds are payable solely from revenues pledged or available for
14 their payment as authorized in this chapter. Each bond must contain on its face a statement to
15 the effect that the bond bank is obligated to pay such principal or interest, and redemption
16 premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged
17 to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill
18 the bond bank's obligations are obligations of the bond bank.

19 All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are
20 payable solely from revenues or funds provided or to be provided under this chapter or chapter
21 40-57 and nothing in this chapter may be construed to authorize the bond bank to incur any
22 indebtedness or liability on behalf of or payable by the state.

23 **SECTION 4. AMENDMENT.** Section 6-09.4-07 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **6-09.4-07. Powers.** The bond bank has the following powers:

- 26 1. To sue and be sued.
- 27 2. To make and enforce bylaws, rules, and regulations for the conduct of its affairs
28 and business and for use of its services.
- 29 3. To acquire, hold, use, and dispose of its income, revenue, funds, and moneys in
30 accordance with law, this chapter or chapter 40-57, or legislative appropriations.

- 1 4. To acquire, rent, lease, hold, use, and dispose of other personal property for its
2 purposes.
- 3 5. To borrow money and to issue its negotiable bonds or notes and to provide for and
4 secure the payment thereof and to provide for the rights of the holders thereof, and
5 to purchase, hold, and dispose of any of its bonds.
- 6 6. To fix and revise from time to time and charge and collect fees and charges for the
7 use of its services or facilities.
- 8 7. To do and perform any acts and things authorized by this chapter or chapter 40-57
9 under, through, or by means of its officers, agents, or employees or by contracts
10 with any person, firm, or corporation.
- 11 8. To make, enter into, and enforce all contracts or agreements necessary,
12 convenient, or desirable for the purposes of the bond bank or pertaining to any
13 loan to a political subdivision or other contracting party or any purchase or sale of
14 municipal securities or other investments or to the performance of its duties and
15 execution or carrying out of any of its powers under this chapter or chapter 40-57.
- 16 9. To purchase or hold municipal securities of political subdivisions or other
17 contracting parties at such prices and in such manner as the bond bank shall deem
18 advisable, and to sell municipal securities acquired or held by it at such prices
19 without relation to cost and in such manner as the bond bank deems advisable.
- 20 10. To invest any funds or moneys of the bond bank not then required for loan to
21 political subdivisions or other contracting parties and for the purchase of municipal
22 securities in the same manner as permitted for investment of funds belonging to
23 the state or the Bank of North Dakota.
- 24 11. To fix and prescribe any form of application or procedure to be required of a
25 political subdivision or other contracting party for the purpose of any loan or the
26 purchase of its municipal securities, and to fix the terms and conditions of any such
27 loan or purchase and to enter into agreements with political subdivisions or other
28 contracting parties with respect to any such loan or purchase.
- 29 12. To consider the need, desirability, or eligibility of such loan, the ability of such
30 political subdivision or other contracting party to secure borrowed money from
31 other sources and the costs thereof, and the particular public improvement, project,

- 1 or purpose to be financed by the municipal securities to be purchased by the bond
2 bank.
- 3 13. To impose and collect charges from a political subdivision or other contracting
4 party for its costs and services in review or consideration of any proposed loan to a
5 political subdivision or other contracting party or purchase of municipal securities of
6 such political subdivision or other contracting party, and to impose and collect
7 charges therefor whether or not such loan has been made or such municipal
8 securities have been purchased.
- 9 14. To fix and establish any and all terms and provisions with respect to any purchase
10 of municipal securities by the bond bank, including dates and maturities of such
11 bonds, provisions as to redemption or payment prior to maturity, and any and all
12 other matters which in connection therewith are necessary, desirable, or advisable
13 in the judgment of the bond bank.
- 14 15. To procure insurance against any losses in connection with its property,
15 operations, or assets in such amounts and from such insurers as it deems
16 desirable to pay the premiums on such insurance.
- 17 16. To the extent permitted under its contracts with the holders of bonds of the bond
18 bank, to consent to any modification with respect to rates of interest, time, and
19 payment of any installment of principal or interest, security, or any other term of
20 bond, contract, or agreement of any kind to which the bond bank is a party.
- 21 17. To do all acts and things necessary, convenient, or desirable to carry out the
22 powers expressly granted or necessarily implied in this chapter or chapter 40-57.
- 23 18. To do and perform any act and thing authorized by section 54-01-27 or 54-17-36
24 under, through, or by means of its officers, agents, or employees or by contracts
25 with any person to assist the state, or any agency or institution of the state, in
26 making, entering, and enforcing all contracts or agreements necessary,
27 convenient, or desirable for the purposes of leasing all or part of, or an undivided or
28 other interest in, property.

29 **SECTION 5. AMENDMENT.** Section 6-09.4-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **6-09.4-09. Pledges.** Any pledge of revenue or of a revenue agreement under chapter
2 40-57 made by the industrial commission as security for bond bank bonds is valid and binding
3 from time to time when the pledge is made. The industrial commission may also pledge assets
4 of the Bank of North Dakota as security for bond bank bonds. The revenues or other moneys
5 so pledged and thereafter received by the bond bank are immediately subject to the lien of such
6 pledge without any physical delivery thereof or further act, and the lien of any such pledge is
7 valid and binding as against all parties having claims of any kind in tort, contract, or otherwise
8 against the bond bank, regardless of whether such parties have notice thereof. Neither the
9 resolution nor any other instrument by which a pledge is created need be filed or recorded,
10 except in the records of the bond bank.

11 **SECTION 6. AMENDMENT.** Section 6-09.4-13 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **6-09.4-13. Personal liability.** Neither the members of the industrial commission nor
14 any person executing bonds issued pursuant to this chapter or chapter 40-57 is liable
15 personally on such bonds by reason of the issuance thereof.

16 **SECTION 7. AMENDMENT.** Subsection 1 of section 40-57-02 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 1. "Municipality" means counties as well as municipalities of the types listed in
19 subsection 4 of section 40-01-01 and, in the case of parking projects, municipal
20 parking authorities created pursuant to section 40-61-02 and the municipal bond
21 bank or any successor in interest to the municipal bond bank for the purpose of
22 issuing revenue bonds under this chapter which are exempt from taxation under
23 the Internal Revenue Code. In acting as a municipality under this chapter, the
24 municipal bond bank or its successor in interest shall follow the provisions of this
25 chapter to the extent applicable. In the event of a conflict between the provisions
26 of this chapter and chapter 6-09.4, the provisions of chapter 6-09.4 govern.

27 **SECTION 8. MUNICIPAL BOND BANK PROGRAM LIMITS.** Any qualified small issue
28 bonds or municipal industrial revenue bonds purchased or issued by the municipal bond bank
29 under this Act may not exceed two million dollars per political subdivision or other contracting
30 party, as the case may be, and twenty million dollars in total for the biennium beginning July 1,
31 2005, and ending June 30, 2007, except that these limits do not apply to revenue bonds issued

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- 1 by the municipal bond bank under chapter 40-57 if the industrial commission approves a
- 2 resolution under the second sentence of subsection 4 of section 6-09.4-10 making that
- 3 subsection inapplicable to bonds issued under the resolution.